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10/540,220

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Paul Dischamp

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EXAMINER

WALSH, DANIEL I

ART UNIT

PAPER NUMBER

2887

NOTIFICATION DATE

DELIVERY MODE

12/21/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/540,220	<b>Applicant(s)</b> DISCHAMP ET AL.	
	<b>Examiner</b> DANIEL WALSH	<b>Art Unit</b> 2887	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-6 and 8-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites “means for measuring time” but then recites “means for certifying a date of receipt” which receives data information from the “time measuring means”. Therefore it is unclear if the time measuring means is measuring time, or if it’s determining a date (Such as day/month/year).

Claim 5 recites that synchronization is performed, but it is unclear what is synchronized.

Claim 3 recites the limitation "the outside" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites that the date determines duration. Again it is unclear how a date determines a duration/time, as it is a date. It is unclear if it is a time that is certified or a date.

Appropriate clarification/correction is requested.

### ***Claim Objections***

3. Claims 1, 5, 6, 11, 16, 18, and 19 are objected to because of the following informalities:

Re claim 1, line 5: Replace "receiving" with -- receive --

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Re claim 5, line 3: Replace “it further includes synchronization means, said” with – the secure electronic entity further comprises synchronization means, and wherein said –

Re claim 6, line 3: Replace “said authentication means are used to” with – and wherein said authentication means—

Re claim 11, line 2: Replace “wherein it” with – wherein the secure electronic entity—

Re claim 16, line 2: Replace “wherein it” with – wherein the secure electronic entity—

Re claim 18, line 2: Replace “wherein it” with – wherein the secure electronic entity—

Re claim 19, line 2: Replace “wherein it” with – wherein the secure electronic entity—

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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1. Claims 1-6, 8-10, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinzaki (US 20030005310).

Re claim 1, Shinzaki teaches the claimed limitations (FIG. 1 and paragraph [0153]) where a card is connected to a host station, has a clock to measure time, certifies a date (time) of receipt of a command from a host and produces data certifying the date for the host computer 400 (through interface 205). Though silent to a date (teaches time), the Examiner notes that date information along with timing is well known in the art and an obvious expedient in order to provide further information, such as is common with clocks/timing of electronic devices, for example (date information and time information being stored/represented as part of a timestamp/internal clock information), and hence certifying both time/date in the process. Re the newly added limitation that the time measuring means are adapted to supply a measurement of time when the entity is not supplied with power by an external power supply, and re claim 8 that the power is electronic the Examiner notes that paragraph [0029] teaches a clock for calculating time, interpreted as a clock of the portable device, thus able to measure time without an external power supply/without electronic external power.

Re claim 2, the limitations have been discussed above.

Re claim 3, the section 307 of the card certifies the data/time from outside.

Re claim 4, there is a predetermined value (time) for a limit (paragraph [1054]).

Re claim 5, though silent to synchronization, the Examiner notes that in instances of communication between two devices with clock data, synchronization is an obvious expedient to provide updated information, especially as the specifics of the synchronization are not claimed. Merely handling/processing the received data can broadly be interpreted as synchronization.

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Re claim 6, authentication is interpreted as part of the certifying process.

Re claim 9, the clock (304) meets the limitations.

Re claim 10, though silent to comparing dates, as discussed above, the use of dates in addition to time is an obvious expedient for more detailed information (part of conventional time stamping of internal clocks). Alternatively, comparing two times can be interpreted to meet the claim limitations as the Examiner notes it is unclear whether time or date is being compared.

Re claims 18-21, the limitations have been discussed above as a microchip/microcircuit card/circuit card/smartcard. Though silent to a tag, the card is broadly interpreted as functionally equivalent to an electronic tag, such as an RFID tag/smartcard. A date/duration/time is all obvious expedients for certifying by time/date, based upon how time is calculated/determined/clocked.

2. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shinzaki as discussed above, in view of Kim (US 20030075609).

The teachings of Shinzaki have been discussed above.

Shinzaki is silent to synchronization.

Kim teaches such limitations (paragraph [0034]).

At the time the invention was made, it would have been obvious to combine the teachings of Shinzaki with those of Kim in order to provide updated information (synchronized) as is conventional in the art with electronic communication involving times.

3. Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinzaki as discussed above, in view of Horvat et al. (US 7036018).

The teachings of Shinzaki have been discussed above.

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Shinzaki is silent to the subsystem as claimed (claim 11), the residual charge measuring time (claim 12), MOS technology and SiO<sub>2</sub> dielectric (claim 13), FET and insulating layer characteristics (re claim 14), thickness (claim 15), two subsystems (claim 16), and software (re claim 17).

Horvat et al. teaches such limitations (see col 6, col 6 lines 4-38, col 6 lines 21-67, col 6 lines 39-67, col 7 lines 1-40). The Examiner notes that selecting a particular thickness of a capacitive component is a matter of design variation based on system constraints, and therefore is an obvious expedient as the general parameters are taught and therefore choosing an optimum value/range for a desired result involves only routine skill in the art. Column 6 also teaches that the system has software controlled by the processor which is needed to operate the card.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Shinzaki with those of Horvat et al.

One would have been motivated to do this in order to have an alternative way for the card to carry a charge after being disconnected and also providing more security.

4. Claims 1, 2, 4, 5, 8, 9, 10 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al. (US 20040150468).

Re claim 1, Shimizu et al. teaches a secure electronic entity adapted to be connected to a host station, said entity containing means for measuring time (timer 37) adapted to supply a measurement of time when the entity is not supplied with power as the state changes with a lapse of time without the power, and means for certifying a data of receipt of a command from said host station, wherein said certification means receives from said time measuring means information on said data and produces data certifying said date intended for an external entity

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(control circuit 34 which receives a command from the host and can certify based upon the timer, whether the command should be processed or not. Though silent to actual certifying, the Examiner notes that a receipt of a command can be processed through interaction with the timer to produce data only when such a process is certified/permitted by using time data in combination with the control circuit. Further, result data is interpreted to indicate that the date of receipt is certified (paragraph [0071]+). Though silent to a date, as time is only mentioned, the Examiner notes that the additional use of a date, applied to timing, is an obvious expedient to provide more detailed timing information. Further, paragraph [0063] teaches reader authentication. Again as discussed above, the timing information can be interpreted as the date information, since it is unclear. Further, date in addition to time is an obvious expedient, as discussed above, as part of clock information, as known in the art.

Re claim 2, the Examiner has interpreted that the time is certified, as discussed above.

Re claim 4, as discussed above, via timing information, the certification means can certify the command is received within a proper timing.

Re claim 5, as the message is received from a host, synchronization is interpreted as occurring.

Re claim 8, the limitations have been discussed above.

Re claim 9, timer 37 is separate from a clock signal externally generated.

Re claim 10, as discussed above, the timer compares two times. Though silent to dates, appending date information to time information is an obvious expedient to provide more detailed time information, but as discussed above, the timing can represent the dates, as part of an internal clock, as discussed above.



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Re claim 18, the card/device is portable, as discussed above, As an IC/microcircuit card

20. IC cards can be employed as an electronic tag, as understood in the art, for tracking, inventory, POS environments, etc. as a matter of design variation. Re claim 1, as a time is determined, the limitations are believed to be taught. It would have been an obvious expedient for date to be part of a time, based upon how time is calculated, in order to provide timing information.

5. Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al. as discussed above, in view of Horvat et al. (US 7036018).

The teachings of Shimizu et al. have been discussed above.

Shimizu et al. is silent to the subsystem as claimed (claim 11), the residual charge measuring time (claim 12), MOS technology and SiO<sub>2</sub> dielectric (claim 13), FET and insulation layer characteristics (re claim 14), thickness (claim 15), two subsystems (claim 16), and software (re claim 17).

Horvat et al. teaches such limitations (see col 6, col 6 lines 4-38, col 6 lines 21-67, col 6 lines 39-67, col 7 lines 1-40). The Examiner notes that selecting a particular thickness of a capacitive component is a matter of design variation based on system constraints, and therefore is an obvious expedient as the general parameters are taught and therefore choosing an optimum value/range for a desired result involves only routine skill in the art. Column 6 also teaches that the system has software controlled by the processor which is needed to operate the card.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Shimizu et al. with those of Horvat et al.

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One would have been motivated to do this in order to have an alternative way for the card to carry a charge after being disconnected and also providing more security.

6. Claims 1, 2, 4, 5, 8, 9, 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvat et al. (US 7036018).

Horvat et al. teaches a integrated circuit card containing means for measuring a time and certifying a date of receipt of a command from a host station as discussed above, wherein the control device is able to determine a number of executions per unit time which is able to produce data certifying the date (whether or not the commands are acceptable to be executed). As discussed above, power is not required by an external power supply. Though silent to an actual date, the Examiner notes that as timing is taught, a date is an obvious matter of design variation to produce additional timing data, such as is conventional as being provided with clock/timing data.

Re claim 2, the Examiner has interpreted that the time is certified by counting executions per unit time.

Re claim 4, Horvat et al. teaches (re claim 1) that certification of command received in a given time period/before a limit date.

Re claim 5, as the claim merely recites synchronization and not specifics, by receiving and processing a signal, synchronization is interpreted as occurring.

Re claim 8, the limitations have been discussed above.

Re claim 9, the time measuring is residual charge of a capacitor as discussed above.

Re claim 10, as the actual number of executions per unit time is compared to a threshold, two dates/times are interpreted as being compared.

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Re claims 11-17, the limitations have been discussed above.

Re claim 18, the card is portable.

Re claim 19, a card is taught above.

Re claim 20, the use of a card as a tag is a matter of intended use. Further, the Examiner notes that an IC card can be broadly interpreted as a tag.

Re claim 21, a duration/time has been discussed above.

#### ***Additional Remarks***

Upon reconsideration of Shinzaki and Horvat et al. and application of the new art to Shimizu et al., the Examiner has rejected the claims as per above, and this action remains non-final. Any delay is regretted.

The Examiner notes that the art to Abgrall (US 20060129849), La Rosa (WO2008012463), Sureaud (US 7431211) also teach time measuring through discharge of the capacitor, including in cards, and the Examiner suggests the Applicant review such teachings before filing any possible claim amendments to related subject matter in order to expedite prosecution.

Further, the Examiner notes that the limitations regarding measuring time and then certifying a date, is still unclear to the Examiner. Is an actual date (day/month/year information certified/provided, or is it information part of conventional clock/timing information that is certified/provided.)

#### ***Conclusion***

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL WALSH whose telephone number is (571)272-2409. The examiner can normally be reached on M-F 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL WALSH/  
Primary Examiner, Art Unit 2887